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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,615	06/26/2003	Audra S. Wright	19,644	4914

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EXAMINER

SHAH, KAMINI S

ART UNIT PAPER NUMBER

2142

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,615

Applicant(s)

WRIGHT ET AL.

Examiner

Kamini S. Shah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-21 and 24 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 2, 4, 8, 18, 20, 24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over at least claims 1, 3-6, 18 of copending Application No. 10/608,164 in view of Cacioli et al. The method claims of the present application and apparatus claims of the co-pending application 10/608,164 comprises the measuring the effort and/or relative difficulty associated in donning a glove including mounting glove and a device for measuring effort associated with donning the glove in way that mounting a glove for it to be open and donnable. Furthermore, the measuring device comprises the device for collecting

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data (claim 5 of '164) and device for acquiring data (claim 22 of '164), measuring a load cell for exerting force, a linear variable differential transducer affixed to glove mount for measuring glove stretch, a light curtain for measuring glove displacement/stretch. The only difference between two the claims at present and claims in the co-pending application is a testing apparatus. Co-pending application is silent about including testing apparatus, however, Cacioli et al discloses the testing apparatus via electronic microchip and sensor embedded in the cuff area of glove, see col. 2, lines 20-65. It would have been obvious to one of the ordinary skill in the art at the time of invention to utilize the teaching of testing apparatus of Cacioli in combination of co-pending application 10/608,164 for clearly providing the relative effort of donning of glove. Furthermore, the omission of limitation in the present application is an obvious expedient to the one of the ordinary skill in the art and the remaining elements perform the same function as before. In re Karlson, 136 USPQ 184 (CCPA 1963). Also note Ex parte Rainu, 168 USPQ 375 (Bd. Apo. 1969). Omission of a reference element whose function is not needed would be obvious to one of the ordinary skill in the art.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 8-21, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cacioli et al (6,850,162) in view of Rix (6,419,131).

Regarding claims 1 and 11, Cacioli et al teaches an apparatus (15) for measuring the effort associated with donning comprising: a test apparatus having glove, such as , electronic microchip and sensor embedded in the cuff area, as in fig. 1, a device for measuring the effort associated with donning the glove, such as microchip integrally includes sensor that both detect and measure the verity of physical parameters related to integrity of the glove , see col. 2, lines 20-65 . However, Cacioli et al fails to teach glove mount on mounting device. However, Rix teaches a glove (34) used for a donning apparatus. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to have used the mounting device of Rix in the donning apparatus of Cacioli et al for the purpose of testing the forces experienced by a wearer when donning a tubular article mounted on mounting device (abstract, Cacioli et al).

Regarding claims 2, 18 Rix teaches the article mount in predetermined orientation (figs. 1 and 2).

Regarding claims 3, 19 Cacioli et al does not teach the device as claimed. However, Rix teaches the device as in figure 1 and col. 1, lines 58-68, and element 22 and 24 in figure 7. It would have been obvious to one of the ordinary skill in the art at the time of invention was made to have used the glove mount device of Rix in the apparatus of Cacioli et al for the purpose of providing an apparatus whereby the glove is positioned so that the hand can easily inserted into device.

Regarding claims 4, 20 Cacioli et al teaches the device collects data on the force acting upon the glove mount while the glove is being donned (fig. 1).

Regarding claim 5, 8-10, and 21, 24 Cacioli discloses load sensor for measuring the tension within the tubular article and a tension measuring and recording device as in figure 1, and figure 3.

Regarding claims 12-17, claimed features such as washing and draying hand for predetermined amount of time, is not particularly disclosed in Cacioli et al, however, it is well known and obvious to one of the ordinary skill in the art to performance such action for sanitary reason.

Allowable Subject Matter

4. Claims 6,7, 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The cited prior art does not disclose linear variable differential transducer and a light curtain for measuring the stretching undergone by glove.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamini S. Shah whose telephone number is 571-272-2279. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B. Harvey can be reached on 571-272-3896. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kamini S Shah
Primary Examiner
Art Unit 2142

kss